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April 29, 2003

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

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APR 29 2003

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Notice of Ex Parte Presentation in CC Docket No. 01-92

Dear Ms. Dortch:

On Monday, April 28, 2003, Sylvia Lesse, Steven Watkins and I met with members of the Commission's Staff on behalf of the Alliance of Incumbent Rural Independent Telephone Companies (the "Alliance"), the Georgia Telephone Association, the Kentucky Independent Telephone Group, the Mississippi Rural Independent Telephone Company Group, and the Tennessee Rural Independent Coalition (all of which are collectively referred to herein as the "Independents"). The members of the Commission Staff in attendance were Tamera Preiss, Victoria Schlesinger, and Steven Morris of the Wireline Competition Bureau, and Jared Carlson and Peter Trachtenberg of the Wireless Telecommunications Bureau.

The purpose of our meeting was to discuss issues raised in the above-referenced proceeding in the specific context of *ex parte* communications on April 16 and 23, 2003 by Verizon Wireless. The positions we advocated, together with the underlying factual and legal analysis, have been fully set forth on the record in the Comments submitted on August 8, 2002 and October 18, 2002, on behalf of the Alliance.

In addition, we observed that the record reflected by recent *ex parte* submissions of other parties do not address several critical facts:

1. The Independents are not attempting to assess "access charges" to wireless carriers.
2. CMRS providers have an array of choices with respect to the termination of traffic to the networks of the Independents. These choices include: 1) interconnection in accordance with Section 251(b)(5) of the Telecommunications Act; 2) indirect interconnection through another carrier; and

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3) any other form of interconnection available to any telecommunications carrier.

3. No Independent, or any other rural incumbent local exchange carrier, is required to utilize a tandem provide by a connecting Bell Operating Company or any other carrier.

4. Neither the Telecommunications Act nor any rule implemented by the Commission mandates any single network arrangement pursuant to which an Independent, or any other telecommunications carrier, must interconnect to deliver traffic originated by its end users to another carrier's network. While Section 251(b)(5) provides a framework for one method that a carrier may choose as a matter of right to transport and terminate certain traffic on another carrier's network, neither Section 251(b)(5) nor any other federal law or regulation dictates when a rural incumbent local exchange carrier must elect to utilize Section 251(b)(5) to terminate traffic originated by its end users. Nor does any federal law or regulation prescribe end user customer rates or rate design with respect to the treatment of traffic originating on the network of a rural local exchange carrier and destined to the network of a CMRS provider.

5. The April 23, 2003 Verizon Wireless notice of *ex parte* communication attaches copies of extracts from the so-called industry "meet point billing" guidelines set forth in the "Multiple Exchange Carrier Access Billing ("MECAB") document published by the Alliance for Telecommunications Industry Solutions ("ATIS"). These guidelines have been cited recently by BellSouth to support its unilateral decision to alter an existing interconnection arrangement with the Independents by substituting a so-called "meet-point billing." Under existing arrangements, BellSouth brings traffic (including traffic of CMRS carriers) to the networks of the Independents for termination; until recently, BellSouth provided compensation to the Independents in accordance with established terms and conditions. The Independents' objection to this attempted fiat, in the form of the various "Petitions for Emergency Relief" filed by the Independents before their respective state regulatory authorities, were brought to the Commission's attention by Verizon Wireless and are attached to its *ex parte* notice of April 16, 2003.

With respect to these unilaterally imposed, so-called "meet point billing" arrangements, the Independents provided the members of the Commission Staff a copy of Section 2.1 of the ATIS MECAB document which is also attached hereto. This Section, captioned "Scope," demonstrates that, contrary to the implication arising from its omission, it is not an industry standard to impose unilaterally a meet-point billing arrangement on any carrier. Although this fundamental principle has been overlooked by those who cite the MECAB guidelines, it is both a matter of common sense and clearly articulated in the guidelines that the determination of implementation of any meet-point billing arrangement is "based upon Provider-to-Provider negotiations where the regulatory environment permits. When all involved providers agree to a meet-point Billing arrangement, these guidelines are used" (emphasis added).

On behalf of the Independents, we explained that the application of the critical facts and analysis set forth in items 1-5 support the rational resolution of several of the issues pending before the Commission:

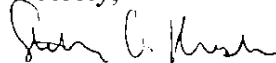
1. The Independents have urged the Commission to grant the US LEC Petition. When any local exchange carrier receives any traffic delivered by an interexchange or toll carrier utilizing an established access interconnection arrangement to terminate the traffic, the local exchange carrier is entitled to access charges in accordance with applicable rules and regulation.

2. The Independents have urged the Commission to reject the T-Mobile Petition. The Independents should be permitted to establish statements of general terms and conditions that may be applicable to the provision of interconnection services. The establishment of such statements of generally available terms through the filing of a tariff is consistent with the intent and underlying purpose of Section 252(f) of the Telecommunications Act. Access to generally available terms and conditions provides an administratively efficient mechanism for the establishment of an interconnection arrangement between the requesting and providing parties. Moreover, the establishment of tariffs providing statements of generally available terms and conditions does not obviate the right of a requesting carrier to negotiate and arbitrate, if necessary, individually applicable terms and conditions with respect to the interconnection services requested by that carrier.

3. The Independents continue to urge the Commission to deny Sprint's Petition that seeks to dictate how the Independents would route and rate traffic destined to a CMRS provider. As demonstrated in the August 8, 2002 Comments of the Alliance, and further demonstrated by the facts set forth above, Sprint's proposal has no basis in fact or law. The result of Sprint's proposition would be: 1) to deny incumbent rural local exchange carriers their statutory rights regarding the treatment of traffic originating on their networks; and 2) to require incumbent rural local exchange carriers to take responsibility for the transport of traffic beyond their established networks and certificated service areas. The objectives sought by Sprint are matters for negotiation between two interconnecting carriers exercising their respective rights established by Section 251. The declaratory ruling sought by Sprint is contrary to fact and law.

Please direct any questions regarding this Notice to Sylvia Lesse, Steven Watkins or me at (202)296-8890.

Sincerely,


Stephen G. Kraskin

Attachment

cc: Tamera Preiss
Victoria Schlesinger
Steven Morris,
Jared Carlson
Peter Trachtenberg

2. GENERAL

2.1 Scope

These guidelines are for billing access and interconnection services provided by two or more providers or by one provider in two or more states within a single LATA. It is to the mutual benefit of both customers (customers and end users) and providers that bills be accurate and auditable. This document addresses the concept of MPB and revenue sharing as detailed in the December 8, 1988 Report. As stated previously, access and interconnection services include Usage Sensitive and Flat Rates Services. Where intrastate tariffs and contracts permit, these guidelines are used for access and interconnection services. The determination of implementing a meet-point Billing arrangement between providers, which operate in the same territory, is based upon Provider-to-Provider negotiations where the regulatory environment permits. When all involved providers agree to a meet-point Billing arrangement, these guidelines are used.

2.2 MECAB Revision

2.2.1 Reason for Revision

OBF Issue 472 (the MECAB Change Management Document) recommends that the MECAB be updated to incorporate all resolved OBF issues affecting the MECAB document. This is the **sixth revision** to the MECAB based on OBF Issue 472. This revision contains updates to industry guidelines to reflect the resolution of the following OBF Issues:¹

- Issue 1548 - Billing Verification Process in an Unbundled Environment
- Issue 1667 - Exchange of Billing Information
- Issue 1690 - Notification of Interconnecting Billing Information to the ULEC.
- Issue 2056 - For Facility-Based LECs/CLECs & CMRS, Enhance the
Meetpoint/Meetpoint-like Record Exchange to be Consistent with
Unbundled Processes
- Issue 2138 - Redefine and Evaluate the Need for Existing MECAB Data Elements
- Issue 2162 - Eliminate Pass Through meet-point Billing Options in MECAB

The following issues were reviewed but no changes were made to the document.

- Issue 1284 - Long Term LNP Billing and Verification
- Issue 1287 - Billing For Unbundled Network Elements
- Issue 1528 - The Billing Impact Resulting From Access Reform
- Issue 1593 - Guidelines Do Not Exist For Providing Historical PICC Detail Data to Verify
PICC Charges

2.2.2 Change Management

MECAB standards represent policy guidelines approved by the OBF; the Billing Committee of the OBF is responsible for the MECAB document. MECAB is changed through the incorporation of resolved OBF issues. Proposed changes to MECAB are reviewed and approved by the OBF Billing Committee and the OBF General Session. In accordance with the MO&O in CC Docket No. 86-104, released July 31, 1987, the FCC will have the opportunity to review any revisions to the standards (MECAB) to the extent that further tariff revisions are necessary.

¹ A record of resolved OBF Issues incorporated in MECAB revisions is contained in Section 11 - OBF Issues Included in MECAB Revisions.